

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	4:07CR3019
)	
v.)	
)	
EMMETT LLOYD DAVIDSON,)	TENTATIVE FINDINGS ON MOTION
)	FOR DOWNWARD DEPARTURE AND
Defendant.)	ON PRESENTENCE INVESTIGATION
)	REPORT

The defendant has submitted a motion for downward departure and a brief in support of that motion. He suggests that offenses set out in paragraphs 42, 43, 44, 50, 51, and 54 are minor offenses, such as those set out in § 4A1.2(c)(1)-(2) and should not be assessed any points. I disagree. All the offenses in those named paragraphs are offenses of drug use or possession. None of the prior offenses listed in § 4A1.2(c)(1) and (2) are similar to those shown in the motion for downward departure or similar to the instant offense.

The assessment of a total of two criminal history points for misdemeanor assaults is appropriate.

Assessment of two criminal history points for criminal non-support, despite the fact that he has not seen his children, who reside in Michigan for 15 years and has had difficulty maintaining employment and has several periods of homelessness is appropriate and does not reduce the seriousness of the defendant's criminal history or the likelihood that he will commit other crimes.

There is no evidence that the assessment of "a total four (4) criminal history points for failure to appear" had to do with a time when the defendant did not have a permanent address or vehicle.

The defendant's criminal history is not overstated. Thus, the motion for downward departure is denied.

There are no other objections to the Presentence Investigation Report. I therefore tentatively find that the Presentence Investigation Report is true and accurate. Objections may

be made to these tentative findings at the time of the sentencing, but no evidence shall be received and none has been requested and required by the Order on Sentencing Schedule.

Dated June 6, 2007.

BY THE COURT

s/ Warren K. Urbom
United States Senior District Judge